

# PATENT COOPERATION TREATY

# PCT

## DECLARATION OF NON-ESTABLISHMENT OF INTERNATIONAL SEARCH REPORT

(PCT Article 17(2)(a), Rules 13~~ter~~.1(c) and Rule 39)

Applicant's or agent's file reference 62226 - PCT - LH2	IMPORTANT DECLARATION	Date of mailing(day/month/year) 30/03/2005
International application No. PCT/US2004/035143	International filing date(day/month/year) 22/10/2004	(Earliest) Priority date(day/month/year) 24/10/2003
International Patent Classification (IPC) or both national classification and IPC H01S		
Applicant BLACKLIGHT POWER, INC.		

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This International Searching Authority hereby declares, according to Article 17(2)(a), that **no international search report will be established** on the international application for the reasons indicated below

1. ☐ The subject matter of the international application relates to:
  - a. ☐ scientific theories.
  - b. ☐ mathematical theories
  - c. ☐ plant varieties.
  - d. ☐ animal varieties.
  - e. ☐ essentially biological processes for the production of plants and animals, other than microbiological processes and the products of such processes.
  - f. ☐ schemes, rules or methods of doing business.
  - g. ☐ schemes, rules or methods of performing purely mental acts.
  - h. ☐ schemes, rules or methods of playing games.
  - i. ☐ methods for treatment of the human body by surgery or therapy.
  - j. ☐ methods for treatment of the animal body by surgery or therapy.
  - k. ☐ diagnostic methods practised on the human or animal body.
  - l. ☐ mere presentations of information.
  - m. ☐ computer programs for which this International Searching Authority is not equipped to search prior art.
2. ☒ The failure of the following parts of the international application to comply with prescribed requirements prevents a meaningful search from being carried out:
 

☒ the description
☒ the claims
☐ the drawings
3. ☐ The failure of the nucleotide and/or amino acid sequence listing to comply with the standard provided for in Annex C of the Administrative Instructions prevents a meaningful search from being carried out:
 

☐ the written form has not been furnished or does not comply with the standard.
 ☐ the computer readable form has not been furnished or does not comply with the standard.
4. ☐ The failure of the tables related to the nucleotide and/or amino acid sequence listing to comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions prevents a meaningful search from being carried out:
 

☐ the written form has not been furnished.
 ☐ the computer readable form has not been furnished or does not comply with the technical requirements.
5. Further comments:

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## FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 203

The present application relates to the generation of novel hydrogen species, referred to as hydrinos and dihydrinos, and compositions of matter comprising new forms of hydrogen, and further to an inverted population of states of hydrinos, and a laser using this inverted population for stimulated emission.

In particular, the claims relate to lasers (independent claims 1, 25, 65, 104, 138, 141), light sources (independent claims 66, 145, 148), compounds (independent claims 68, 69, 70, 73), catalysts (independent claims 74, 75, 80, 81, 82, 83, 84, 86, 87, 88, 102, 103), cells (independent claims 76, 77, 100), catalytic reactions (independent claims 89, 90, 97, 98), a mixture of catalysts (independent claim 101), use of lasers (independent claim 142), electricity (independent claims 143, 146) and the use of electricity (independent claims 144, 147).

The wording of the claims renders it difficult, if not impossible, to determine the subject-matter for which protection is sought. In particular, the present application fails to comply with the requirements of clarity of Article 6 PCT for the following reasons:

i) Claims 1, 3, 5, 6, 9, 17, 21, 22, 24, 25, 27, 30, 31, 39, 41, 45, 46, 48, 51, 53, 54, 56, 57, 58, 65, 66, 67, 68, 69, 70, 71, 72, 73, 86, 87, 88, 89, 97, 98, 104, 110, 138, 145 and 148 contain terms which have no well-recognised meaning in the art and render the definition of the subject-matter of said claims unclear. Even though not listed here, the same problem arises for all claims dependent on the aforementioned.

ii) The following claims attempt to define the subject-matter in terms of the result to be achieved, without providing the technical features necessary for achieving this result:

Claims 1, 3, 15, 16, 17, 24, 25, 27, 30, 31, 42, 45, 49, 54, 56, 57, 58, 65, 66, 67, 68, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 82, 86, 87, 88, 89, 90, 91, 94, 97, 98, 99, 101, 102, 103, 104, 105, 110, 138, 141, 145 and 148.

Moreover, neither the additional dependent claims nor the description contain any subject-matter which, in combination with the subject-matter of any claim to which they refer, would overcome the above objections. Consequently, the application does not contain any subject-matter which would disclose the invention in a manner sufficiently clear and complete to be carried out by a person skilled in the art, contrary to the requirements of Article 5 PCT.

In particular, in the description in sections I.2.1 and I.2.2, hydrinos and dihydrinos, i.e. novel hydrogen species, are theoretically described in terms of binding energies. Mathematical relationships for the binding energies are presented.

In sections II.1 to II.6 a number of catalysts are theoretically described to generate novel hydrogen species in catalytic reactions. However, the reactors and the reaction conditions presented in sections II.7 to II.9 and in sections IV.1 to IV.5 of the description are merely broadly defined and apparently ordinary (cf. page 61, lines 23-25 of the description). No specific features describing the apparatus are given. No concrete example is given for the production of novel hydrogen species. It is therefore not evident to the skilled person what technical features of a reactor make the generation of novel hydrogen species possible. A similar argumentation applies for the features of the lasers presented in sections I.2.4, II.10 and IV.6 of the description. The technical

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features presented do not enable the skilled person to carry out the invention.

Therefore, the present application fails to comply with the requirements of sufficient disclosure of Article 5 PCT.

The said lack of clarity of the claims in combination with the said lack of sufficient disclosure is to such an extent that a meaningful search is not possible. Consequently, no search report can be established for the present application.

The applicant's attention is drawn to the fact that claims relating to inventions in respect of which no international search report has been established need not be the subject of an international preliminary examination (Rule 66.1(e) PCT). The applicant is advised that the EPO policy when acting as an International Preliminary Examining Authority is normally not to carry out a preliminary examination on matter which has not been searched. This is the case irrespective of whether or not the claims are amended following receipt of the search report or during any Chapter II procedure. If the application proceeds into the regional phase before the EPO, the applicant is reminded that a search may be carried out during examination before the EPO (see EPO Guideline C-VI, 8.5), should the problems which led to the Article 17(2) declaration be overcome.

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